

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

Kevin Braithwaite

Plaintiff,

v.

Marcello Rispoli et al.,

Defendants.

C.A. No. 04-1542-GMS

Trial By Jury Demanded

AFFIDAVIT OF LT. MARCELLO RISPOLI

I, Marcello Rispoli, having been duly sworn according to law, depose and state as follows:

1. I make this affidavit based upon personal information.
2. I am employed by the State of Delaware's Department of Correction ("DOC") as a Correctional Lieutenant at the Delaware Correctional Center ("DCC") in Smyrna, Delaware. My responsibilities include the implementation of prescribed policies and procedures as well as ensuring the enforcement of institutional/departmental rules and regulations for staff and inmates. Additional duties include directing and participating in shakedowns of buildings, grounds and cell blocks to detect contraband and/or defects in the security system.
3. On October 9, 2004, I was the supervisor for the 4:00 p.m. to 12:00 a.m. shift. My supervisory duties included Building 18 in SHU, the maximum security housing unit, as well as several other buildings.
4. On October 9, 2004, at around 10:20 PM, it was reported to me that Plaintiff Kevin Braithwaite ("Braithwaite") had attempted to hang himself. When I

Exh. J-1

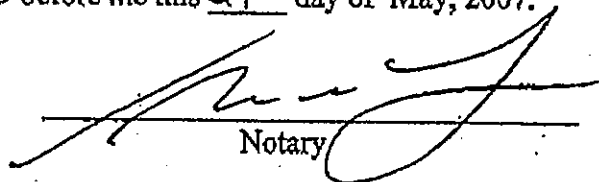
arrived at Building #17, I was told that Braithwaite had been capstunned by C/O Stephanie Carpenter. Carpenter told me that when she saw Braithwaite with a noose around his neck she ordered his cell door opened. As soon as the door was opened; however, Braithwaite lunged at her resulting in her using capstun on him. Braithwaite was subsequently placed in the Interview Room where he told me that he really was not going to go through with the "hanging" but felt this was the only way he was going to get to the infirmary for treatment for his shoulder and rib. While Braithwaite was in the interview room a nurse from medical arrived to examine him. The nurse cleared Braithwaite to return to cell #13 where as a precaution he was placed on strip status.

5. Later on that evening around 11:10 PM, I was called back to building #18 as there was a report that the inmate in cell #12 was cutting himself. While I was there, Braithwaite told me that he was going to do the same thing and that he was not going to be doing any isolation time. Medical was called and Braithwaite was subsequently transferred to the infirmary.

6. I was not on duty in the infirmary on October 22, 2004; therefore, I did not assault Braithwaite as he alleges. Moreover, there are no Incident Reports reflecting that this assault ever occurred by any DOC personnel working on that shift.

  
Marcello Rispoli

SWORN TO AND SUBSCRIBED before me this 21 day of May, 2007.

  
Notary

EXH. J-2